

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN THE MATTER OF:)	Chapter 7
LUTHER HOLMES)	
GWENZELA HOLMES)	CASE NO.: <u>13-64738</u>
)	
Debtors)	
)	
)	
GATEWAY ONE LENDING &)	
FINANCE LLC)	
)	
Plaintiff)	CONTESTED MATTER
_____)	
)	
GATEWAY ONE LENDING &)	
FINANCE LLC,)	
)	
Plaintiff,)	Adversary No.
)	13-05338
)	
v.)	
)	
)	
LUTHER HOLMES &)	
GWENZELLA HOLMES)	
)	
Defendants.)	
_____)	

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW Luther and Gwenzella Holmes , (“ Defendants”) by and
through counsel, preserving all defenses and responds to the **COMPLAINT TO**

DETERMINE DISCHARGEABILITY OF DEBT PURSUANT TO §523

(a)(2)(A) and 523 (a)(2)(b) filed by Gateway One Lending and Finance LLC

(“GOLF”) and respectfully showing this honorable court:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

GOLF fails to state a claim or cause of action against Defendants upon which relief may be granted. Federal Rule of Bankruptcy Procedure Rule 7012(b)(6) and Rule 12(b)(6) of the Federal Rules of Civil Procedure.

SECOND DEFENSE

Defendants are not a real party in interest.

THIRD DEFENSE

The equitable claims of Plaintiff’s complaint as to Defendants is barred in whole or in part under the doctrine of unclean hands.

FOURTH DEFENSE

The affirmative defenses of Estoppel and release bar the relief sought against Defendants in Plaintiff’s Complaint.

FIFTH DEFENSE

Plaintiff’s claims are barred because no act or omission by Defendants

alleged in the Complaint caused Plaintiff any loss or damage.

SIXTH DEFENSE

Plaintiff has not met all the elements of fraud.

SEVENTH DEFENSE

No false representation or no knowledge of alleged falsity has been plead.

EIGHTH DEFENSE

Defendant reserves the right to amend, assert or delete any affirmative defenses and matters in avoidance as may be disclosed during the course of additional investigation and discovery.

NINTH DEFENSE

Subject to and without waiving any of its other rights, defenses or objections Defendants respond to the specific averments and allegations contained in the individual and enumerated paragraphs of Plaintiff's Complaint as follows:

ANSWER

1. Admit
 2. Defendants are without knowledge and information to accurately answer this as they filing party was not the original party in the purchase transaction.
- Notwithstanding Defendant denies these averments and allegations stated.

3. Admit
4. Admit
5. Defendants lack knowledge and information to respond to the averments in paragraph 5. Notwithstanding Defendants deny these averments and allegations stated.
6. Admit
7. Deny
8. The documents speak for themselves.
9. Defendants lack knowledge and information to respond to the averments in paragraph 9. Notwithstanding Defendants deny these averments and allegations stated.
10. Deny
11. Defendants lack knowledge and information to respond to the averments in paragraph 11. Notwithstanding will state that the documents speak for themselves.
12. Defendants lack knowledge and information to respond to the averments in paragraph 12. Notwithstanding Defendants deny these averments and allegations stated
13. Admit
14. Defendants lack knowledge and information to respond to the averments in

paragraph 14. Notwithstanding Defendants deny these averments and allegations stated.

15. Defendants lack knowledge and information to respond to the averments in paragraph 15. Notwithstanding will state the documents speak for themselves.

16. Admit

17. Admit

18. Admit

19. Deny

20. Admit

21. Admit

22. Defendants lack knowledge and information to respond to the averments in paragraph 22. Notwithstanding will state the documents speak for themselves.

23. Defendants lack knowledge and information to respond to the averments in paragraph 23.

24. Defendants lack knowledge and information to respond to the averments in paragraph 24.

25. Defendants lack knowledge and information to respond to the averments in paragraph 25.

26. Defendants lack knowledge and information to respond to the averments in paragraph 26.

27. Defendants lack knowledge and information to respond to the averments in paragraph 27.

28. No response necessary

29. Deny

30. Deny

31. Deny

32. Deny

33. Deny

34. The averments and allegations in numbered paragraph 34 contain legal propositions and calls for a conclusion of law, as such no response is required. Notwithstanding Defendant denies these averments and allegations stated.

35. No response necessary

36. Defendants lack knowledge and information to respond to the averments in paragraph 36.

37. Deny

38. Deny

39. Deny

40. The averments and allegations in numbered paragraph 40 contain legal propositions and calls for a conclusion of law, as such no response is required. Notwithstanding Defendant denies these averments and allegations stated.

Wherefore, Defendants request

1. That this case be dismissed in its entirety
2. In the event this action was not rendered “substantially Justified” under 523(d), Defendants be entitled to a judgment, costs and any reasonable attorney’s fees occurred.

Respectfully submitted this 29th day of October 2013

/s/ Latrice L. Latin
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CERTIFICATE OF SERVICE

I hereby certify a copy of the following **ANSWER** was served by ECF mail if registered with the Clerk of Courts or by certified mail on the following parties on this 29th day of October, 2013.

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